

ESTTA Tracking number: **ESTTA423854**

Filing date: **08/08/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Tequila Revolucion S.A.P.I de C.V.
Granted to Date of previous extension	08/17/2011
Address	Bosque de Duraznos No. 61 PL/ ELobby Bosques de las Lomas, Delegacion Mexico, C.P. 11700 MEXICO
Correspondence information	Michael J. Brown Michael J Brown Law Office LLC 570 West Mt. Pleasant Avenue Suite 101 Livingston, NJ 07039 UNITED STATES michael@mjbrownlaw.com Phone:973-577-6300

Applicant Information

Application No	85214200	Publication date	04/19/2011
Opposition Filing Date	08/08/2011	Opposition Period Ends	08/17/2011
Applicant	Caribbean Distillers, LLC 350 Dakota Avenue Lake Alfred, FL 33850 UNITED STATES		

Goods/Services Affected by Opposition


Class 033. All goods and services in the class are opposed, namely: Spirits; Wine
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2992248	Application Date	06/25/2004
Registration Date	09/06/2005	Foreign Priority Date	NONE
Word Mark	REVOLUCION		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 1997/02/14 First Use In Commerce: 1997/02/14 Spirits, namely, tequila

Attachments	78441610#TMSN.jpeg (1 page)(bytes) Notice of Oppos-REVOLUTION FIRE.pdf (5 pages)(28293 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/MichaelJBrown/
Name	Michael J. Brown
Date	08/08/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85/214200

Published in the Official Gazette of April 19, 2011

Atty. Ref.: Arav-Opp02

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Tequila Revolucion S.A.P.I. de C.V.	:	
	:	
Opposer,	:	
	:	
-against-	:	Opposition No.
	:	
Caribbean Distillers, LLC	:	
	:	
Applicant.	:	
-----	X	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Tequila Revolucion S.A.P.I. de C.V., a Mexican corporation ("Opposer"), believes that it will be damaged by registration of the mark REVOLUTION FIRE shown in Serial No. 85/214200, filed January 10, 2011, and hereby opposes same.

As grounds for opposition, it is alleged that:

1. Opposer, including any and all predecessors-in-interest, has continuously used REVOLUCION as a trademark for alcoholic beverage products, including tequila since at least as early as November of 1995, and has continuously used REVOLUCION as a trademark in commerce that Congress may regulate since at least as early as February of 1997.

2. Opposer is the owner of U.S. trademark registration Reg. No. 2992248, registered September 6, 2005, for the mark REVOLUCION for "Spirits, namely, tequila." This registration was based on first use and first use in commerce at least as early as February of 1997.

3. Opposer's registration is valid and subsisting, and in full force and effect. Registration No. 2992248 has attained incontestable status under Section 15, and a Section 8 Declaration of Use has been filed and accepted.

4. Opposer's predecessor-in-interest owned U.S. trademark registration Reg. No. 2077996 for the same goods, but that older registration lapsed without intent to abandon the mark in 2004, as no Section 8 Declaration was filed.

5. Since the dates of first use and first use in commerce asserted in Paragraphs 1 and 2, Opposer has continuously sold its tequila products, under and in connection with its REVOLUCION trademark in the United States, and has developed an exceedingly valuable goodwill and tremendous recognition value in respect of said trademark.

6. By virtue of its efforts and the expenditure of considerable sums for advertising and promotional activities, and by virtue of the excellence of its products sold thereunder, Opposer has gained for its REVOLUCION trademark a most valuable reputation.

7. Opposer's REVOLUCION mark is famous, in that Opposer's goods bearing the mark have appeared in a Ke\$ha music video over the past year, which music video has been viewed by over 30 million views on YouTube alone.

8. Opposer's mark has acquired distinctiveness over the many years in which the mark has been in use.

9. On or about January 10, 2011, Applicant filed an application in the United States Patent and Trademark Office, Serial No. 85/214200, for registration on the Principal Register in Class 33 of the mark REVOLUTION FIRE for "Spirits; wine" based on an intent to use.

10. There is no issue of priority, since the filing date of Applicant's REVOLUTION FIRE federal trademark application is well subsequent to Opposer's first use and first use in commerce of REVOLUCION as a trademark, and to the registration dates of the two REVOLUCION registrations asserted above.

11. The REVOLUTION FIRE mark Applicant seeks to register is confusingly similar to Opposer's REVOLUCION trademark. REVOLUCION and REVOLUTION FIRE are visually and phonetically similar and they are likely to be perceived as similar in connotation. The word "Revolucion" is identical in pronunciation and meaning to the word "Revolution."

12. Upon information and belief, the goods covered by Applicant's application are identical in kind to the goods for which Opposer has for many years used REVOLUCION as a trademark in the United States and for which Opposer has obtained federal registrations in Class 33, as asserted above.

13. Applicant's REVOLUTION FIRE mark, when applied to the goods for which Applicant seeks registration, is likely to be confused with or mistaken for Opposer's REVOLUCION trademark. Moreover, consumers are likely to be deceived as to the origin, sponsorship, or affiliation of Applicant's goods bearing the REVOLUTION FIRE mark.

14. Prospective purchasers of Applicant's REVOLUTION FIRE goods are likely to erroneously believe that such goods originate with or are sponsored by Opposer or to erroneously assume that there is some trade connection between Applicant and Opposer.

15. Applicant's REVOLUTION FIRE mark is substantially the same as Opposer's REVOLUCION mark, such that consumers would falsely associate Applicant's goods with Opposer's goods and thereby dilute the value of Opposer's REVOLUCION mark.

16. Opposer will be injured by the granting of a Certificate of Registration to Applicant for the mark of application Serial No. 85/214200 because Applicant's mark is confusingly similar to Opposer's REVOLUCION trademark and therefore, when used in connection with the goods of Applicant, such mark

- a. would be likely to cause confusion or to cause mistake or to deceive;
- b. would falsely suggest a connection with Opposer; and
- c. would tend to damage and dilute Opposer's valuable goodwill in its REVOLUCION trademark.

WHEREFORE, Opposer, by its attorneys, requests that this opposition be sustained and the application for registration be denied.

Respectfully submitted,

Dated: August 8, 2011

By: /MichaelJBrown/
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Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2011, I served this Notice of Opposition on the applicant by mailing a copy thereof by First Class Mail, postage prepaid, addressed to applicant's correspondence address of record as follows:

Cristina Arenas Solis
Ferraiuoli Torres Marchand & Rovira, PSC
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221 Plaza Suite 403
San Juan, PR 00917

/MichaelJBrown/

Michael J. Brown